

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JERALD LEE MCCOWAN.

Plaintiff,

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NANCY A. BERRYHILL, Acting  
Commissioner of the Social Security  
Administration.

Defendant.

CASE NO. 3:17-CV-05313-JCC-JRC

REPORT AND RECOMMENDATION  
ON STIPULATED MOTION FOR  
REMAND

This matter has been referred to Magistrate Judge J. Richard Creature pursuant to 28

U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews*,

*Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on

Defendant's stipulated motion to remand the matter to the administration for further

consideration (Dkt. 18).

Based on the stipulation of the parties, this Court recommends that it be ORDERED that the Commissioner's decision in regard to Plaintiff's application for Supplemental Security

1      Income under Title XVI of the Social Security Act be REVERSED and REMANDED to the  
2      Commissioner of Social Security for further administrative proceedings. On remand, the  
3      Administrative Law Judge should 1) re-weigh the opinion of Dr. Hielbrunn, either including in  
4      the RFC all assessed limitations or providing legally sufficient reasons, supported by substantial  
5      evidence, for discounting them, as necessary; (2) re-evaluate Plaintiff's RFC; and (3) reconsider  
6      and resolve conflicts at step 5, obtaining vocational evidence, if necessary.

7              It is further recommended that the Clerk enter judgment pursuant to the order.

8              This remand should be made pursuant to sentence four of 42 U.S.C. § 405(g), and  
9      Plaintiff should be entitled to reasonable attorney fees and costs, pursuant to 28 U.S.C. §  
10     2412(d), following proper request to the Court.

11              Given the facts and the parties' stipulation, the Court recommends that the District Judge  
12     immediately approve this Report and Recommendation and order the case be **REVERSED** and  
13     **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

14              Dated this 3rd day of November, 2017.



15              J. Richard Creatura  
16              United States Magistrate Judge  
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